

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed 12/06/2004. Consideration and allowance of the application and presently pending claims as amended, is respectfully requested.

### **1. Present Status of Patent Application**

Upon entry of the amendments in this response, the following amended and new claims will be pending:

**Original claims: 3, 5-12, 16, 18, 20**

**Amended claims: 2, 4, 15, 19**

**Cancelled claims: 1, 13, 14, 17**

**New claims: none**

Claims 1, 13, 14 and 17 stand cancelled. The amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application and place the claims in condition for allowance.

### **2. Response to Rejections of Claims 13 & 14 under 35 U.S.C. §112**

In the Office Action, claims 13 and 14 continue to stand rejected under 35 U.S.C. §112, first paragraph, as failing to compile with the enablement requirements in that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which is most nearly connected, to make and/or use the invention.

The office action states that the Examiner is not persuaded by Applicants comments submitted in applicants response of 11/10/2004 and has characterized arguments previously submitted by applicants as "incongruous". Clearly there has been some misunderstanding of Applicants position. It is emphasized that Applicant has not and does not contend that the claimed invention is well known. However, Applicants do submit that certain elements specified and required by the claims are known. These elements include the "audio control

device” specified and required by claim 13 and the “video control device” specified and required by claim 14.

Further, it is submitted that Applicants position that an element is known, and thus properly disclosed for purposes of 35 USC 112, is in no way contrary to the position that the Applicants disclosure has been used as a guide through the maze of prior art in order to cobble together enough prior art references to purportedly support the position that a claim is obvious under 35 USC 103. It is important to remember that the allowability of a claim is determined only thru consideration of each and every element specified by the claim at issue. Patentability is not precluded by the fact that an invention incorporates one or more known attributes of the prior art. As such, a claim can be allowable even when it specifies and requires one or more elements already known to be in the prior art. Further, the fact that known elements are specified by a claim does nothing to diminish the fact that the disclosure of the application has been impermissibly used as “a guide through the maze of prior art”.

Applicants resubmit and assert without repeating here, it’s position with respect to claims 13 and 14 as set out in applicants previously submitted response of 11/10/2004. Nonetheless, in the interests of moving prosecution of the present case forward, applicants have cancelled claims 13 and 14 herein. Claims 13 and 14 are canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to these claims are rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

**3. Response to Rejection of Claims 2,3,6,9,10,11,15,16 and 19 under 35 U.S.C. §102**

Claims 2,3,6,9,10,11,15,16 and 19 stand rejected under 35 U.S.C. §102 (b) as being anticipated by GLADER (USP 3689864). Applicants continue to respectfully disagree with the assertions of the office action herein, and submit that claims 2,3,6,9,10,11,15,16 and 19 as originally submitted are not anticipated by GLADER.

Applicants have previously noted that the disclosure of Glader leaves a great deal to the imagination. So much so that it is unclear just what the nature of any hole/slot obstructed

from view by the head 20 of bolt B might be. Further, despite the assertions of the present office action (page 7, lines 8-10), the disclosure of FIG. 4C and 4D of the present application does not correspond to what is actually shown by Glader.

**RE: CLAIM 2** – Claim 2 has now been twice amended as discussed further below and is believed to be in condition for allowance. However, without repeating same, Applicants again submit and assert the same arguments and comments set out in applicants previously submitted response of 11/10/2004.

In the interests of advancing the present case, claim 2 has been amended herein, to further clarify features of embodiments of the invention. More particularly, claim 2 has been amended to specify and require, among other things *first ear that extends from a first end of a yoke; second ear that extends from a second end of the yoke; and the yoke is configured so that the surface of the yoke surrounding the perimeter of a slotted mounting hole lies in substantially the same plane*. The prior art does not disclose, contemplate or otherwise suggest a device having all of the limitations specified by twice amended claim 2. In order for a claim to be anticipated by the prior art, each and every limitation specified by the claim at issue must be found in the prior art. Applicants submit that the cited art fails to disclose each and every limitation specified by the claims herein as originally submitted.

Applicants note that Glader fails to disclose an electrical device that incorporates, among other things, a first or a second ear as specified and required by twice amended claim 2. These ears are shown in the embodiments illustrated in FIG.s. 2A-2D, 4A-4I, 5A and 5B, and can be seen to extend from respective ends of the yoke 210. The ears act to contact an adjacent wall surface when it is available and thereby hold the electrical device generally flush with the wall surface 80 (FIG. 3). In this way, the contact of the ears with the adjacent wall surface can act to help hold the electrical device flush with the wall surface 80 without reliance on double headed/yoked mounting screws. However, in the event that an adjacent wall surface is not available, the present invention may be easily installed and held in place via mounting screws 250.

Glader is not concerned with nor directed to providing an electrical device that may be leveled flush with an adjacent wall surface without the aid of a double headed mounting screw. Further, Glader is not concerned with nor directed to providing an electrical device that may be easily/quickly installed/removed without having to completely unscrew/remove

one or more related mounting screws. Consideration and allowance of amended claim 2 is respectfully requested.

Applicants are submitting for approval revised FIG.s. 2A-2D, 4A-4I, 5A and 5B which have been amended to point out ears 280, 281, 282 and 283, which are already depicted, but not labeled in the original drawings. Proposed revisions are shown in RED. These proposed amendments add no new matter. Approval is requested.

**RE: CLAIMS 3, 5-6, 11-14** – Claims 3, 5-6, 11-14 depend from claim 2. In order for a dependent claim to be anticipated by the prior art, the prior art must show each and every limitation specified by the claim. In the case of a dependent claim, this means each and every limitation of the independent claims and any intervening claims, must also be found in the prior art. Applicant would repeat here the same arguments and remarks set out above concerning claim 2. In view of this, it is believed that pending claims 3, 5-6, 11-14 are not anticipated by the prior art and otherwise meet all requirements for patentability. However, independent claim 2 has been amended as noted above. Reconsideration and allowance of claims 3, 5-6, 11-14 in view of amended claim 2 is requested.

**RE: CLAIM 15** - Claim 15 has now been twice amended as discussed further below and is believed to be in condition for allowance. However, without repeating same, Applicants again submit and assert the same arguments and comments set out in applicants previously submitted response of 11/10/2004.

In the interests of advancing the present case, claim 15 has been amended herein, to further clarify features of embodiments of the invention. More particularly, claim 15 has been amended to specify and require, *among other things first ear that extends from a first end of a yoke; second ear that extends from a second end of the yoke; score line delineating a portion of the yoke that can be removed to form a channel that extends from an outer edge of the yoke and opens into said slotted mounting hole; and when said portion is removed, the channel is configured to receive a mounting screw and allow it to be passed into the slotted mounting hole.* The prior art does not disclose, contemplate or otherwise suggest a device having all of the limitations specified by twice amended claim 15. Consideration and allowance of amended claim 15 is respectfully requested.

As noted above, proposed amendments to FIG.s. 2A-2D, 4A-4I, 5A and 5B have been submitted and approval of same is requested.

**RE: CLAIMS 16 & 18** - Claims 16 & 18 depend from claim 15. In order for a dependent claim to be anticipated by the prior art, the prior art must show each and every limitation specified by the claim. In the case of a dependent claim, this means each and every limitation of the independent claims and any intervening claims, must also be found in the prior art. Applicant would repeat here the same arguments and remarks set out above concerning claim 15. In view of this, it is believed that pending claims 16, 18 are not anticipated by the prior art and otherwise meet all requirements for patentability. However, independent claim 15 has been amended as noted above. Reconsideration and allowance of claims 16, 18 in view of amended claim 15 is requested.

**RE: CLAIM 19** – Claim 19 has now been twice amended as discussed further below and is believed to be in condition for allowance. However, without repeating same, Applicants again submit and assert the same arguments and comments set out in applicants previously submitted response of 11/10/2004.

In the interests of advancing the present case, claim 19 has been amended herein, to further clarify features of embodiments of the invention. More particularly, claim 19 has been amended to specify and require, among other things *first ear that extends from a first end of a yoke; second ear that extends from a second end of the yoke; slotted mounting hole for receiving said mounting screw; and channel configured to open into said slotted mounting hole to allow a mounting screw to be passed into said slotted mounting hole.*

The prior art does not disclose, contemplate or otherwise suggest a device having all of the limitations specified by twice amended claim 19. Consideration and allowance of amended claim 19 is respectfully requested.

As noted above, proposed amendments to FIG.s. 2A-2D, 4A-4I, 5A and 5B have been submitted to point out relevant features already shown in the originally submitted drawings and approval of same is requested.

**RE: CLAIM 20** – Claim 20 depends from claim 19. In order for a dependent claim to be anticipated by the prior art, the prior art must show each and every limitation specified by the claim. In the case of a dependent claim, this means each and every limitation of the independent claims and any intervening claims, must also be found in the prior art. Applicant would repeat here the same arguments and remarks set out above concerning claim 19. In view of this, it is believed that pending claim 20 is not anticipated by the prior art and

otherwise meet all requirements for patentability. However, independent claim 19 has been amended as noted above. Reconsideration and allowance of claim 20 in view of amended claim 19 is requested.

**4. Rejection of claims 4, 5, 7, 8, 10, 13, 14, 18 and 20 under 35 U.S.C. §103**

Claims 4, 5, 7 and 8 have been rejected as being unpatentable over GLADER (USP 3689864) in view of HUBBELL et al (USP 2966654). Claims 13, 14 and 20 have been rejected as being unpatentable over GLADER in view of SLATER et al (USP 3403215). Claim 17 and 18 has been rejected as being unpatentable over EDER (USP 5389011) in view of SLATER.

It is respectfully submitted that the Office Action herein does not establish a case of prima facie obviousness with regard to claims 4, 5, 7, 8, 10, 13, 14, 18 and 20. Without repeating same here, Applicants again submit and assert the same arguments and comments set out in applicants previously submitted response of 11/10/2004. Nonetheless, as discussed above amendments have now been made to the claims which are believed to bring further clarity to claimed embodiments of the invention.

Applicants would point out that neither Glader, Eder, Slater or Hubbell contemplate or are otherwise concerned with nor directed to providing an electrical device that may be leveled flush with an adjacent wall surface without the aid of a double headed mounting screw and which may be easily/quickly installed/removed without having to completely unscrew/remove one or more related mounting screws. In short, none of these references contemplate the problems to which the present invention is directed, nor do they suggest modification or combination of the prior art so as to achieve the benefits of the present claimed invention.

The mere fact that the prior art can be supposedly modified so as to result in the combination defined by the claims at issue does not make the modification obvious unless the prior art suggests the desirability of such modification.

In view of the amendments to independent claims 2, 15 and 19 herein, it is important to note that each and every limitation of the claim at issue must be considered. In the case of dependent claims, this requires that each and every limitation of the independent claim and any intervening claims, from which they depend also be considered. In view of the

amendments herein, Applicants believe that claims 4, 5, 7, 8, 10, 13, 14, 18 and 20 are in condition for allowance. Reconsideration is respectfully requested.

5. Amendments to Specification

The specification has been amended to provide description of features appearing in the originally submitted drawings. These amendments correspond to the proposed revisions to the drawing submitted herewith.

6. Amended Claims

Claim 2 has been amended to specify, among other things, *first ear that extends from a first end of a yoke; second ear that extends from a second end of the yoke; and the yoke is configured so that the surface of the yoke surrounding the perimeter of a slotted mounting hole lies in substantially the same plane.* This claim as well as all original dependent claims 3 – 14 are believed to meet all requirements for allowance.

Claim 15 has been amended to specify, among other things, *first ear that extends from a first end of a yoke; second ear that extends from a second end of the yoke; score line delineating a portion of the yoke that can be removed to form a channel that extends from an outer edge of the yoke and opens into said slotted mounting hole; and when said portion is removed, the channel is configured to receive a mounting screw and allow it to be passed into the slotted mounting hole.* This claim as well dependent claims 16 and 18 are believed to meet all requirements for allowance.

Claim 19 has been amended to specify, among other things, *first ear that extends from a first end of a yoke; second ear that extends from a second end of the yoke; slotted mounting hole for receiving said mounting screw; and channel configured to open into said slotted mounting hole to allow a mounting screw to be passed into said slotted mounting hole.* This claim as well as dependent claim 20 are believed to meet all requirements for allowance.

## CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims **2 – 16, 18 - 20** are in condition for allowance. Favorable re-consideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (678) 352-0103.

### Certificate of Mailing

I hereby certify that this correspondence, and attachments, if any, is being deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

DATE: **January 20, 2005**



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Respectfully submitted,

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